IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1935 of 2000

to

FIRST APPEALNo 1946 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SPECIAL LAND ACQUISITION OFFICER

Versus

RAMJIBHAI JIVRAJBHAI

Appearance:
Mr.Umesh Trivedi, learned A.G.P.for the appellants
Mr.J.M.Patel for
MR AJ PATEL for Respondents-claimants.

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE J.R.VORA

Date of decision: 06/02/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

All these First Appeals, 12 in number, are directed against the Award dated 27.1.2000 passed by the 2nd Extra Assistant Judge & Special Judge (LAR) Narmada Yojana, Ahmedabad (Rural) at Mirzapur as a common order in Land Acquisition Reference Cases Nos.2224 to 2235 of 1996. We, therefore, propose to decide all these First Appeals by this common Judgment and order as under:-

Lands of the respondents-claimants were sought to be acquired for Goraiya Branch Canal Project. For this purpose, Notification under Sec.4 was issued on 19.10.93 and, thereafter, Notification under Sec.6 of the Land Acquisition Act was issued on 12.7.94. It is given out that the Land Acquisition Officer passed the Award on 12.2.96 determining the rate of compensation at Rs.1.50 per sq.mt. The respondents claimants took the matter to the Reference Court claiming Rs.50/-- per sq.mt. and the Reference Court has determined the rate of compensation at Rs.18/-- per sq.mt. over and above Rs.1.50 per sq.mt. as had been determined by the Land Acquisition Officer.

It is not in dispute between the parties that the impugned Award dated 27.1.2000 is based on three previous awards in which the lands of the same village were acquired.

A. One of the three awards Exh.15 dated 6.2.89 was passed in L.A.Cases Nos.595 to 601 of 1987 wherein the Reference Court had determined the rate of compensation at Rs.8/-- per sq.mt. instead of Rs.0.70 Ps. per sq.mt. as had been determined by the Land Acquisition Officer. In this case the Notification under Sec.4 was issued on 12.7.84. This previous award Exh.15 was challenged before the High Court and the order was confirmed by the High Court vide Exh.16 dated 1.5.90.

B. The next award is Exh.17 relating to Land Acquisition Cases Nos.314 to 319 of 1986 decided on 29.10.88. In this case also the Reference Court had determined the rate of compensation at Rs.8/-- per sq.mt. as against the rate determined by the Land Acquisition Officer to be Rs.0.40 Ps. per sq.mt. In this case Notification under Sec.4 was issued on 2.9.82.

This Award Exh.17 dated 29.10.88 was also confirmed by the High Court on 12.2.96 in First Appeals Nos.1311 to 1316 of 1989 vide Exh.18.

C. The next is the Award Exh.64 passed in Land Reference Cases Nos.2236 to 2253 of 1996 on 26.10.99. In these cases not only that the lands were of the same village but they were also acquired for the same purpose i.e. Goraiya Branch Canal Project. In this case Notification under Sec.4 was issued on 26.4.93. The Reference Court determined the rate of compensation to be Rs.18/-- per sq.mt. over and above and in addition to the rate determined by the Land Acquisition Officer at Rs.1.50 per sq.mt. This Award dated 26.10.99 i.e. Exh.64 was also confirmed by the High Court in First Appeals Nos.1268 to 1285 of 2000 decided on 16.8.2000.

Mr.J.M.Patel appearing for the respondents claimants has further pointed out that in First Appeals Nos.1404 to 1421 of 2000 decided on 14.8.2000 the same position was there and he has submitted that in view of the group of First Appeals decided by this Court on 14.8.2000 and 16.8.2000 i.e. First Appeals Nos.1404 to 1421 of 2000 and First Appeals Nos.1268 to 1285 of 2000 these Appeals deserve to be dismissed.

We have gone through the aforesaid orders and having heard learned counsel for both the sides, it is very clear that in addition to the previous Awards Exh.15 and 17, which have been relied upon by the Reference Court while passing the order impugned in these Appeals, award Exh.64 dated 26.10.99 is the nearest case to the facts of the present case. The lands, which were concerned in the Award Exh.64, are of the same village as are concerned in the present case and they had also been acquired for the same purpose. Apart from this admitted position, it is also a fact, which is not in dispute, that in the cases at hand the date of the issue of the Notification under Sec.4 is 19.10.93 and in case of Exh.64 it was 26.4.93. Therefore, there is hardly a difference of few months and in the present case Notification under Sec.4 has been issued after a period of about 5 to 6 months in the same year 1993 and Exh.64 has also been confirmed by the High Court.The orders dated 14.8.2000 and 16.8.2000, as have been passed by the High Court in group of First Appeals, referred to hereinabove, also fully covers the grievance raised in these Appeals. As a matter of fact, these Appeals were filed by the State before August 2000, sometime in June

2000 i.e. before the High Court's Judgment in August, 2000 as above.

For the reasons aforesaid, we find that the impugned award, as has been passed, does not warrant any interference by this Court and all these 12 First Appeals must fail and, therefore, the same are hereby dismissed. Notice discharged. No order as to costs.

It is expected that the due amount shall be paid to the claimants within a period of three months from the date the certified copy of this order is served upon the concerned authority.

(M.R.Calla,J)

(J.R.Vora,J)